

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MICHAEL NINIVAGGI, JAKE MICKEY  
and CAILIN NIGRELLI, HANNAH  
RUSSO,  
individually and on behalf of all others  
similarly situated,

*Plaintiffs,*

v.

UNIVERSITY OF DELAWARE,

*Defendant.*

Civil Action No.: 20-cv-1478-SB

Judge Stephanos Bibas

DECLARATION OF AMANDA STERNBERG  
REGARDING NOTICE AND SETTLEMENT  
ADMINISTRATION

**DECLARATION OF AMANDA STERNBERG REGARDING  
NOTICE AND SETTLEMENT ADMINISTRATION**

I, Amanda Sternberg hereby declare and state as follows:

1. I am a Director employed by Epiq Class Action & Claims Solutions, Inc. (“Epiq”). I have 10 years of experience handling all aspects of settlement administrations. The statements of fact in this declaration are based on my personal knowledge and information provided to me by my colleagues in the ordinary course of business, and if called on to do so, I could and would testify competently thereto.

2. Epiq was appointed as the Settlement Administrator pursuant to the Court’s Order granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel and Approving Notice Plan (the “Order”) dated June 23, 2023, and in accordance with the Class Action Settlement Agreement dated June 14, 2023 (the “Agreement”).<sup>1</sup> I submit this Declaration in order to advise the Parties

---

<sup>1</sup> All capitalized terms not otherwise defined in this document shall have the same meanings ascribed to them in the Agreement.

and the Court regarding the implementation of the Court-approved Agreement, and to report on Epiq's handling to date of the Settlement Administration, in accordance with the Order and the Agreement.

3. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements, including some of the largest and most complex cases ever settled. Epiq's class action case administration services include administering notice requirements, designing direct-mail notices, implementing notice fulfillment services, coordinating with the United States Postal Service ("USPS"), developing and maintaining notice websites and dedicated telephone numbers with recorded information and/or live operators, processing exclusion requests, objections, claim forms and correspondence, maintaining class member databases, adjudicating claims, managing settlement funds, and calculating claim payments and distributions. As an experienced neutral third-party administrator working with settling parties, courts, and mass action participants, Epiq has handled hundreds of millions of notices, disseminated hundreds of millions of emails, handled millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions in payments.

### **OVERVIEW OF ADMINISTRATION**

4. Pursuant to the Agreement and Order, Epiq was appointed to provide, and did provide, the following administrative services for the benefit of Settlement Class Members, as they are defined in the Agreement:

- Send CAFA Notice to the appropriate Federal and State government officials;
  - As appropriate, Email Notice to Settlement Class Members;
  - As appropriate, mail a Postcard Notice to Settlement Class Members;
  - Establish and maintain an official Settlement Website containing information about the Settlement;
  - Establish and maintain an official toll-free number that Settlement Class Members may contact for additional information about the Settlement;
  - Review and process Opt-Outs OR Requests for Exclusion sent to or received by Epiq;
- and
- Review and track objections sent to or received by Epiq.

### **CLASS ACTION FAIRNESS ACT NOTICE**

5. As described in the attached June 16, 2023 *Declaration of Kyle S. Bingham* (“CAFA Declaration”), on June 16, 2023, Epiq sent a CAFA notice packet (or “CAFA Notice”) to 57 federal and state officials as required by the Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. § 1715. The CAFA Notice was mailed by certified mail to 55 officials, which included the Attorney General of the United States and the Attorneys General of each of the 49 states, the District of Columbia, and the United States’ Territories. Epiq also sent the CAFA Notice to the Attorney General of the United States by United Parcel Service and, as per the direction of the

Office of the Nevada Attorney General, the Notice was sent to the Nevada Attorney General electronically via email. The CAFA Declaration is included as **Attachment A**.

### **DATA TRANSFER**

6. On July 4, 2023, the Defendant provided Epiq with one (1) electronic file containing potential Settlement Class Member records. The file contained 19,106 rows of data containing names, addresses, and email addresses for potential Settlement Class Members (“Class Data”).

7. Epiq loaded the information provided by the Defendant into a database created for the purpose of administration of the proposed Settlement. Epiq assigned unique identifiers to all the records it received in order to maintain the ability to track them throughout the Settlement Administration process. In total, 19,106 unique Class Member records (the “Class List”) were provided to Epiq.

### **DISSEMINATION OF INDIVIDUAL CLASS NOTICE VIA EMAIL**

8. Pursuant to Section 4 of the Agreement and Section 12 of the Order, Epiq was to cause the Court-approved Summary Notice to be formatted for electronic distribution by email to Settlement Class Members for whom an email address was included in the Class Data. Attached hereto as **Attachment B** is a template of the Court-approved Summary Notice that Epiq electronically disseminated to Class Member for whom an email address was provided in the Class Data (“Email Notice”). The Email Notice contained substantial, albeit easy to read, information that made potential Settlement Class Members aware of their rights under the Settlement and

provided instructions on how to obtain more information by visiting the Settlement website or toll-free number.

9. The Email Notice, which was formatted for distribution using imbedded html text, provided Class Members with a link to the Settlement website. The Email Notice was formatted with easy-to-read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers and/or SPAM filters. Epiq also followed standard email protocols, including utilizing “unsubscribe” links and Epiq’s contact information in the Email Notice.

10. Epiq sent Email Notice to 19,006 potentially valid email addresses in the Class List on July 14, 2023. Each Email Notice was transmitted with a unique message identifier. If the receiving e-mail server could not deliver the message, a “bounce code” was returned along with the unique message identifier.

11. For all Class Members with potentially valid email addresses in the Class Data, Epiq closely monitored all deliverability attempts of the Email Notice throughout the Email Notice campaign. A total of 17,548 Email Notices were delivered. Of the 1,458 Email Notices that could not be delivered, 1,090 of them were undeliverable because the email address no longer existed, the email account was closed, or the email address had a bad domain name or address error (collectively, “Hard Bouncebacks”). After three attempts, the remaining 368 Email Notices could not be delivered due to an inactive or disabled account, the recipient’s mailbox was full, technical auto-replies, or the recipient server was busy or unable to deliver (collectively, “Soft Bouncebacks”). Ultimately, Epiq was able to deliver direct Email Notice to over 92% of the email addresses provided in the Class Data.

12. Pursuant to Section 4 of the Agreement and Section 12 of the Order July 25, 2023, Epiq sent Postcard Notice to each of the Settlement Class Members provided in the Class List without an email address, in addition to 1,456 Settlement Class Members whose email addresses “bounced” back as undeliverable in the email campaign effort and had a valid physical mailing address on file. In total, Epiq mailed 1,556 Postcard Notices. As of September 25, 2023, only 29 of these Postcard Notices remain undeliverable. Attached hereto as **Attachment C** is a template of the Court-approved Postcard Notice.

13. In sum, Class Notice was timely emailed or sent via First Class U.S. Mail to 19,106 Settlement Class Members identified using Defendant’s records. Through these means, direct notice was provided to over 99% of the class.

#### **SETTLEMENT WEBSITE**

14. Pursuant to Section 4 of the Agreement and Section 14 of the Order, on July 13, 2023, Epiq launched a website, [www.UDSettlement.com](http://www.UDSettlement.com), that potential Settlement Class Members could visit to obtain additional information about the proposed Settlement, as well as important documents, including the Long Form Notice, Settlement Agreement, Preliminary Approval Order, Amended Complaint, the Election Form, and any other relevant information that the parties agree to provide or that the Court may require (“Website”). The Website contains a summary of options available to Settlement Class Members, deadlines to act, and provides answers to frequently asked questions. Settlement Class Members are also able to submit a Payment Election Form via the website, or download a paper Payment Election Form, which they could then file by mail. In addition, the Website provides Settlement Class Members with information regarding objecting to or requesting to be excluded from the Settlement and/or not doing anything; instructions on how

to contact the Settlement Administrator by mail or telephone; and important dates pertaining to the Settlement including the deadline to opt-out of or object to the Settlement, the Election Form submission deadline, and the Fairness Hearing date, place and time. References to the Website were prominently displayed in list of relevant printed notice documents.

15. As of September 25, 2023, the Website has been visited by 10,864 unique visitors and 23,604 website pages have been viewed. Epiq has maintained and will continue to maintain and update the Website throughout the administration of the proposed Settlement.

#### **TOLL-FREE INFORMATION LINE**

16. Pursuant to Section 4 of the Agreement and Section 12 of the Order July 7, 2023, Epiq established and is maintaining a toll-free interactive Voice Response Unit (“VRU”), 1-833-479-0844 to provide information and accommodate inquiries from Class Members. Callers hear an introductory message and then are provided with scripted information about the Settlement in the form of recorded answers to frequently asked questions. The toll-free number was included in the Notice sent to Settlement Class Members and the automated telephone system is available 24 hours per day, 7 days per week.

17. As of September 25, 2023, the toll-free number has received 129 calls representing 277 total minutes.

#### **REQUESTS FOR EXCLUSION**

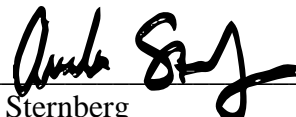
18. Pursuant to Section 15 of the Order, Settlement Class Members who wished to be excluded from the Settlement were required to mail or submit, as appropriate a written Requests for Exclusion OR Opt-Out to Epiq postmarked or received on or before September 19, 2023. As of September 25, 2023, Epiq has received one (1) timely and potentially valid opt-out request and

zero late postmarked or received opt-out requests. A report listing the one (1) timely request received to date is attached hereto as **Attachment D**.

**OBJECTIONS RECEIVED**

19. Pursuant to Section 20 of the Order, Settlement Class Members who wished to object to the Settlement were required to submit written objections to the Class Counsel, and Epiq, such that they were postmarked and received on or before the objection deadline of September 19, 2023. As of September 25, 2023, Epiq is not aware of any written objections to the Settlement.

I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct and that this declaration was executed on September 28, 2023, in Kent, Washington.

  
\_\_\_\_\_  
Amanda Sternberg  
Director  
Epiq



# ATTACHMENT A

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF DELAWARE**

MICHAEL NINIVAGGI, JAKE MICKEY and  
CAILIN NIGRELLI, HANNAH RUSSO,  
individually and on behalf of all others similarly  
situated,

*Plaintiffs,*

v.

UNIVERSITY OF DELAWARE,

*Defendant.*

Civil Action No. 20-cv-1478-SB

**DECLARATION OF KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE**

I, KYLE S. BINGHAM, hereby declare and state as follows:

1. My name is KYLE S. BINGHAM. I am over the age of 25 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

2. I am the Director of Legal Noticing for Epiq Class Action & Claims Solutions, Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, unbiased, legal notification plans. I have overseen and handled Class Action Fairness Act (“CAFA”) notice mailings for more than 350 class action settlements.

3. Epiq is a firm with more than 25 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service (“USPS”), claims database management, claim adjudication, funds management and distribution services.

4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

DECLARATION OF KYLE S. BINGHAM ON IMPLEMENTATION OF CAFA NOTICE

### **CAFA NOTICE IMPLEMENTATION**

5. At the direction of counsel for Defendant University of Delaware, 57 federal and state officials (the Attorney General of the United States and the Attorneys General of each of the 50 states, the District of Columbia, and the United States Territories) were identified to receive CAFA notice.

6. Epiq maintains a list of these federal and state officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").<sup>1</sup>

7. On June 16, 2023, Epiq sent 57 CAFA Notice Packages ("Notice"). The Notice was mailed via USPS Certified Mail to 55 officials (the Attorneys General of 49 states, the District of Columbia, and the United States Territories). As per the direction of the Office of the Nevada Attorney General, the Notice was sent to the Nevada Attorney General electronically via email. The Notice was also sent via United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Certified Mail, Email, and UPS) is included as **Attachment 1**.

8. The materials sent to the federal and state officials included a Cover Letter, which provided notice of the proposed Settlement of the above-captioned case. The Cover Letter is included as **Attachment 2**.

9. The cover letter was accompanied by a CD, which included the following:

a. **Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**

- Ninivaggi Class Action Complaint (filed August 14, 2020);
- Russo Class Action Complaint (filed November 18, 2020);
- Consolidated Class Action Complaint (filed September 3, 2021); and
- Griffin Class Action Complaint (filed April 5, 2023).

---

<sup>1</sup> CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

b. **Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**

- Election Form (*Exhibit A to the Class Action Settlement Agreement*);
- Direct Notice via Email (*Exhibit B to the Class Action Settlement Agreement*);
- Direct Notice via U.S. Mail (*Exhibit C to the Class Action Settlement Agreement*); and
- Long Form Notice (*Exhibit D to the Class Action Settlement Agreement*).

c. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents were included:

- Class Action Settlement Agreement;
  - Stipulation Regarding Undertaking Re: Attorneys’ Fees and Costs (*Exhibit E to the Class Action Settlement Agreement*);
- Notice of Motion for Preliminary Approval of Class Action Settlement;
- Memorandum of Law in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement;
- Declaration of Joshua D. Arisohn in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement;
- [Proposed] Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel, and Approving Notice Plan; and
- Firm Resume.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 16, 2023.

  
KYLE S. BINGHAM

# Attachment 1

## CAFA Notice Service List

## USPS Certified Mail

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Treg Taylor	1031 W 4th Ave	Suite 200	Anchorage	AK	99501
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Tim Griffin	323 Center St	Suite 200	Little Rock	AR	72201
Office of the Attorney General	Kris Mayes	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Protection Section	455 Golden Gate Ave Suite 11000	San Francisco	CA	94102
Office of the Attorney General	Phil Weiser	Ralph L Carr Colorado Judicial Center	1300 Broadway Fl 10	Denver	CO	80203
Office of the Attorney General	William Tong	165 Capitol Ave		Hartford	CT	06106
Office of the Attorney General	Brian Schwalb	400 6th St NW		Washington	DC	20001
Office of the Attorney General	Kathy Jennings	Carvel State Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Ashley Moody	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Anne E Lopez	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Brenna Bird	Hoover State Office Building	1305 E Walnut St	Des Moines	IA	50319
Office of the Attorney General	Raul Labrador	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Kwame Raoul	100 W Randolph St		Chicago	IL	60601
Office of the Indiana Attorney General	Todd Rokita	Indiana Government Center South	302 W Washington St Rm 5	Indianapolis	IN	46204
Office of the Attorney General	Kris Kobach	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Daniel Cameron	700 Capitol Ave Suite 118		Frankfort	KY	40601
Office of the Attorney General	Jeff Landry	PO Box 94005		Baton Rouge	LA	70804
Office of the Attorney General	Andrea Campbell	1 Ashburton Pl 20th Fl		Boston	MA	02108
Office of the Attorney General	Anthony G Brown	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Aaron Frey	6 State House Station		Augusta	ME	04333
Department of Attorney General	Dana Nessel	PO BOX 30212		Lansing	MI	48909
Office of the Attorney General	Keith Ellison	445 Minnesota St Ste 1400		St Paul	MN	55101
Missouri Attorney General's Office	Andrew Bailey	207 West High Street	PO Box 899	Jefferson City	MO	65102
Mississippi Attorney General	Lynn Fitch	PO Box 220		Jackson	MS	39205
Office of the Attorney General	Austin Knudsen	215 N Sanders 3rd Fl	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Drew H Wrigley	600 E Boulevard Ave Dept 125		Bismarck	ND	58505
Nebraska Attorney General	Mike Hilgers	2115 State Capitol	PO Box 98920	Lincoln	NE	68509
Office of the Attorney General	John Formella	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Matthew J Platkin	25 Market Street	PO Box 080	Trenton	NJ	08625
Office of the Attorney General	Raul Torrez	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	CAFA Coordinator	28 Liberty Street 15th Floor		New York	NY	10005
Office of the Attorney General	Dave Yost	30 E Broad St Fl 14		Columbus	OH	43215
Office of the Attorney General	Gentner Drummond	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Michelle A. Henry	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter F Neronha	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	PO Box 11549		Columbia	SC	29211
Office of the Attorney General	Marty Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Jonathan Skrmetti	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	PO Box 12548		Austin	TX	78711
Office of the Attorney General	Sean D Reyes	PO Box 142320		Salt Lake City	UT	84114
Office of the Attorney General	Jason S Miyares	202 N 9th St		Richmond	VA	23219
Office of the Attorney General	Charity R Clark	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 5th Ave Ste 2000		Seattle	WA	98104
Office of the Attorney General	Josh Kaul	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrisey	State Capitol Complex Bldg 1 Room E 26	1900 Kanawha Blvd E	Charleston	WV	25305
Office of the Attorney General	Bridget Hill	109 State Capital		Cheyenne	WY	82002
Department of Legal Affairs	Faiu'u'ulei Falefatu Ala'ilima-Utu	American Samoa Gov't Exec Ofc Bldg Utulei	Territory of American Samoa	Pago Pago	AS	96799
Attorney General Office of Guam	Douglas Moylan	Administrative Division	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	Administration Bldg	PO Box 10007	Saipan	MP	96950
PR Department of Justice	Domingo Emanuelli Hernández	PO Box 9020192		San Juan	PR	00902
Department of Justice	Ariel K Smith	3438 Kronprindsens Gade Ste 2	GERS BLDG	St Thomas	VI	00802

Email

Company	Contact Format	State
Office of the Attorney General for Nevada	All documents sent to NV AG at their dedicated CAFA email inbox.	NV

CAFA Notice Service List

UPS

Company	FullName	Address1	Address2	City	State	Zip
US Department of Justice	Merrick B. Garland	950 Pennsylvania Ave NW		Washington	DC	20530



# Attachment 2

**CAFA NOTICE ADMINISTRATOR**

HILSOFT NOTIFICATIONS  
10300 SW Allen Blvd  
Beaverton, OR 97005  
P 503-350-5800  
DL-CAFA@epiqglobal.com

June 16, 2023

**VIA UPS OR USPS CERTIFIED MAIL**

**Class Action Fairness Act – Notice to Federal and State Officials**

Dear Federal and State Officials:

Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1715, please find enclosed information from Defendant, the University of Delaware, relating to the proposed settlement of class action lawsuits.

- **Cases:** *Ninivaggi v. University of Delaware*, Case No. 20-cv-1478-SB; *Hannah Russo v. University of Delaware*, Case No. 20-cv-01693-SB; and *Sean Griffin v. University of Delaware*, Case No. 23-cv-00385-SB.
- **Court:** United States District Court for the District of Delaware.
- **Defendant:** The University of Delaware.
- **Documents Enclosed:** In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD:

**1. Per 28 U.S.C. § 1715(b)(1) – Complaint and Any Amended Complaints:**

- Ninivaggi Class Action Complaint (filed August 14, 2020);
- Russo Class Action Complaint (filed November 18, 2020);
- Consolidated Class Action Complaint (filed September 3, 2021); and
- Griffin Class Action Complaint (filed April 5, 2023).

**2. Per 28 U.S.C. § 1715(b)(2) – Notice of Any Scheduled Judicial Hearing:** The Court has not scheduled a preliminary approval hearing or a final approval hearing or any other judicial hearing concerning the settlement agreement at this time.

**3. Per 28 U.S.C. § 1715(b)(3) – Notification to Class Members:**

- Election Form (*Exhibit A to the Class Action Settlement Agreement*);
- Direct Notice via Email (*Exhibit B to the Class Action Settlement Agreement*);
- Direct Notice via U.S. Mail (*Exhibit C to the Class Action Settlement Agreement*); and
- Long Form Notice (*Exhibit D to the Class Action Settlement Agreement*).

**CAFA NOTICE ADMINISTRATOR**

HILSOFT NOTIFICATIONS

10300 SW Allen Blvd

Beaverton, OR 97005

P 503-350-5800

DL-CAFA@epiqglobal.com

4. **Per 28 U.S.C. § 1715(b)(4) – Class Action Settlement Agreement:** The following documents are included:
  - Class Action Settlement Agreement;
    - Stipulation Regarding Undertaking Re: Attorneys’ Fees and Costs (*Exhibit E to the Class Action Settlement Agreement*);
  - Notice of Motion for Preliminary Approval of Class Action Settlement;
  - Memorandum of Law in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement;
  - Declaration of Joshua D. Arisohn in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement;
  - [Proposed] Order Granting Preliminary Approval of Class Action Settlement Agreement, Certifying Settlement Class, Appointing Class Representatives, Appointing Class Counsel, and Approving Notice Plan; and
  - Firm Resume.
5. **Per 28 U.S.C. § 1715(b)(5) – Any Settlement or Other Agreements:** There are no other Settlements or Agreements between the parties.
6. **Per 28 U.S.C. § 1715(b)(6) – Final Judgment or Notice of Dismissal:** To date, the Court has not issued a final order, judgment, or dismissal in the above-referenced action.
7. **Per 28 U.S.C. § 1715(b)(7) – Estimate of Class Members:** At this time, Defendant does not know and cannot feasibly determine the names of the class members residing in each state, and therefore cannot feasibly estimate the proportionate share of the claims of such members to the entire settlement pursuant to 28 U.S.C. §1715(b)(7)(A) and (B).
8. **28 U.S.C. § 1715(b)(8) – Judicial Opinions Related to the Settlement:** To date, the Court has not issued a final order or judgment in the above-referenced action.

If you have questions or concerns about this notice or the enclosed materials, please contact this office.

Sincerely,

CAFA Notice Administrator

Enclosures

# **ATTACHMENT B**

Unique ID: <<Unique ID>>

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Ninivaggi v. University of Delaware*, 20-cv-1478-SB  
*Russo v. University of Delaware*, 1:20-cv-01693-SB  
*Griffin v. University of Delaware*, 1:23-cv-00385-SB  
(United States District Court for the District of Delaware)

For more information, visit [www.UDSettlement.com](http://www.UDSettlement.com).

**PLEASE READ THIS NOTICE CAREFULLY. IF YOU ATTENDED THE UNIVERSITY OF DELAWARE DURING THE SPRING 2020 SEMESTER, YOU MAY BE ELIGIBLE TO RECEIVE CASH COMPENSATION FROM A CLASS ACTION SETTLEMENT. THIS NOTICE EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.**

*The United States District Court for the District of Delaware authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.*

**WHY DID I GET THIS NOTICE?**

- A Settlement has been reached in a class action lawsuit between Defendant The University of Delaware (“Defendant” or “UD”) and certain individuals who have alleged that they and the Settlement Class Members,<sup>1</sup> are entitled to partial refunds of tuition and fees for the Spring 2020 Semester because UD transitioned to remote learning in March 2020 amid the COVID-19 pandemic. The case is *Ninivaggi v. University of Delaware*, 20-cv-1478-SB, in the United States District Court for the District of Delaware (the “Lawsuit”). The proposed Settlement is not an admission of wrongdoing by UD, and UD denies all allegations of wrongdoing and disclaims all liability with regard to all claims in the Lawsuit. The Court has granted Preliminary Approval of the Settlement and has conditionally certified the Settlement Class for purposes of settlement only.
- You are a member of the Settlement Class if you were a UD undergraduate or graduate student for whom any amount of tuition and fees was paid from any source (e.g., the student’s own funds, funding from a parent or other family member, loan, or non-UD scholarship) to UD for the Spring 2020 Semester, and whose tuition and fees have not been refunded in their entirety. You are not a Settlement Class Member if you opt out of the Settlement, or if you received a full scholarship from UD for the Spring 2020 Semester.
- Under the Settlement Agreement, UD will pay \$6.3 million. Some of that will go to Class Counsel for attorneys’ fees and expenses, class representative service awards, and the costs of administering the Settlement. What remains of the \$6.3 million will be divided equally among the approximately 21,000 Settlement Class Members. Settlement Class Members will not need take any action to receive their shares of the payment. Settlement Class Members will automatically receive their shares by check mailed to the Settlement Class Member’s last known mailing address. Alternatively, if they prefer to receive their share by Venmo or PayPal, or update their mailing address for mailing of a check, they may visit the Settlement [website](http://www.UDSettlement.com) to complete an Election Form to provide their check, Venmo, or PayPal information.

---

<sup>1</sup> Definitions for terms used herein can be found in the Settlement Agreement available at [www.UDSettlement.com](http://www.UDSettlement.com).

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	Settlement Class Members who do nothing automatically receive a payment by check to the student's last known mailing address as reflected in UD's records after the Effective Date of the Settlement Agreement. You will give up any rights you may have to sue UD about the issues in this case.
<b>CHANGE YOUR PAYMENT OPTIONS</b>	Settlement Class Members may visit <a href="http://www.UDSettlement.com">www.UDSettlement.com</a> to (a) provide an updated address for sending a check or (b) elect to receive the Cash Award by Venmo or PayPal instead of a paper check. Settlement Class Members may also submit this information to the Settlement Administrator by mail at PO Box 2058 Portland, OR 97208-2058.
<b>EXCLUDE YOURSELF</b>	You will not receive your Cash Award, but you will retain any rights you have to sue UD about the issues in this case.
<b>OBJECT</b>	Write to the Court postmarked by no later than <b>September 19, 2023</b> explaining why you don't like the Settlement. If the Court approves the Settlement, you will be bound by the Court's decision and the Settlement Agreement.
<b>ATTEND A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.

***These rights and options—and the deadlines to exercise them—are explained in this Notice. Please review this Notice carefully.***

The Court presiding over this case still has to decide whether to approve the Settlement. The Cash Award made available by this Settlement will be provided only if the Court approves the Settlement and after any issues with the Settlement are resolved. Please be patient.

#### **WHAT IS THIS LAWSUIT ABOUT?**

The lawsuit alleges that students who attended UD for the Spring 2020 Semester are entitled to partial refunds of tuition and fees because UD transitioned to remote learning in March 2020 amid the COVID-19 pandemic. UD denies each and every allegation of wrongdoing, liability, and damages asserted, and UD denies that the claims in the Lawsuit would be appropriate for class treatment if the litigation proceeded through trial.

The Plaintiffs' Amended Complaint, the Settlement Agreement, and other case-related documents are available on the Settlement website, accessible at [www.UDSettlement.com](http://www.UDSettlement.com).

#### **WHY IS THIS A CLASS ACTION?**

A class action is a lawsuit in which one or more persons called a "Class Representative" sues on behalf of people with similar claims. These people together are a "Settlement Class" or "Settlement Class Members." The Settlement, if finally approved by the Court, resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

## WHY IS THERE A SETTLEMENT?

The Plaintiffs and UD have determined that it is in their best interests to settle to avoid the expenses and uncertainties associated with continued litigation. This Settlement resolves all claims asserted in the case against UD and its affiliated persons and entities. The Plaintiffs and the attorneys for the Settlement Class believe the proposed Settlement is in the best interests of the Settlement Class. The Settlement is not an admission of wrongdoing by UD and does not imply that there has been, or would be, any finding that UD violated any law if the case were to move forward. UD denies each and every allegation of wrongdoing and liability in the Lawsuit. The Court did not reach a decision on the merits of the Lawsuit. The Court has preliminarily approved the Settlement and ordered that this Notice be provided to explain it. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that Settlement Class Members receive this Notice and have the opportunity to exclude themselves from the Settlement Class or to voice their support for or opposition to final approval of the Settlement. If the Court does not give final approval to the Settlement, or if it is terminated by the Parties, the Settlement will be void, and the Lawsuit will proceed as if there had been no Settlement and no certification of the Settlement Class.

## WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if you were a UD undergraduate or graduate student for whom any amount of tuition and fees was paid from any source (e.g., the student's own funds, funding from a parent or other family member, loan, or non-UD scholarship) to Defendant for the Spring 2020 Semester, and whose tuition and fees have not been refunded in their entirety. Excluded from the Settlement Class are (1) any Judge or Magistrate Judge presiding over this Action and members of their families; (2) the Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, and attorneys; (3) persons who properly execute and file a timely request for exclusion from the class; (4) the legal representatives, successors, or assigns of any such excluded persons; and (5) UD undergraduate or graduate students that received a full UD scholarship for the Spring 2020 Semester.

## WHAT ARE MY OPTIONS?

### **(1) Receive Payment by Check or Elect to Have Your Payment Made Electronically.**

The \$6.3 million Settlement Fund—minus any attorneys' fees for Class Counsel (addressed below), service awards for the named Plaintiffs of up to \$5,000 each, and the costs of administering the Settlement, will be divided on a *pro rata* basis among all Settlement Class Members. You will not need to take any action to receive your share of the Settlement Fund. Settlement Class Members will automatically receive their shares by check mailed to the Settlement Class Member's last known mailing address as reflected in UD's records. Alternatively, if they prefer to receive their share by Venmo or PayPal, they may visit the Settlement website to provide their Venmo or PayPal information, or they may provide that information to the Settlement Administrator by mail at the address below. If any Settlement Class Members fail to cash their Cash Award checks, those monies from uncashed checks will be deposited in the University of Delaware's Student Crisis Reserve for the purpose of providing additional student aid.

### **(2) Exclude Yourself ("Opt Out" of the Settlement).**

You may exclude yourself from the Settlement. If you do so, you will not receive a share of the Settlement Fund. You will not release any claims you may have against UD and the Released Parties (as that term is defined in the Settlement Agreement, available for review at [www.UDSettlement.com](http://www.UDSettlement.com)), and you will be free to pursue whatever legal rights you may have by pursuing your own lawsuit against the Released

Parties at your own risk and expense. To exclude yourself from the Settlement, you must mail a timely letter to the Settlement Administrator at PO Box 2058 Portland, OR 97208-2058, postmarked by **September 19, 2023**. Your request to be excluded from the Settlement must be personally signed by you and contain a statement that indicates your desire to be excluded from the Settlement Class in *Ninivaggi v. University of Delaware*. The request should also include your full name, address, telephone number(s), and the case name *Ninivaggi v. University of Delaware*, Case No. 20-cv-1478-SB in the United States District Court for the District of Delaware.

You cannot ask to be excluded by phone or on the Settlement website. You may opt out of the Settlement Class only for yourself; one may not purport to opt others out of the Settlement Class on a class or representative basis.

### **(3) Object to the Settlement.**

If you are a Settlement Class Member (and do not exclude yourself from the Settlement Class), you can object to any part of the Settlement. You can ask the Court to deny approval of the proposed Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. If the Court denies approval, the benefits for Settlement Class Members described herein will not be provided and the lawsuit will continue. To object, you must timely present the objection in writing to the Settlement Administrator or directly to the Court and personally sign the objection. Your objection must include (1) your name and address; (2) an explanation of the basis upon which you claim to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the “Objecting Attorneys”); and (5) a statement indicating whether you intend to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules).

**IF YOU DO NOT TIMELY AND VALIDLY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FINAL APPROVAL HEARING.**

If you file and serve a written objection and statement of intent to appear, you may appear at the Final Approval Hearing, either in person or through your personal counsel hired at your own expense, to object to the fairness, reasonableness, or adequacy of the Settlement.

If you wish to object, you must file your objection with the Settlement Administrator or the Court (using the Court’s electronic filing system or in any manner in which the Court accepts filings) no later than **September 19, 2023**. You must also send a copy of your objection by mail, hand, or overnight delivery service, or by operation of the Court’s CM/ECF system, to the attorneys representing the Plaintiffs and the Settlement Class (specifically Joshua D. Arisohn of Bursor & Fisher, P.A., 1330 Avenue of the Americas, New York, NY 10019) and the attorneys representing the University of Delaware (specifically James D. Taylor, Jr. of Saul Ewing LLP, 1201 N. Market Street, Suite 2300, P.O. Box 1266, Wilmington, DE 19899), postmarked no later than **September 19, 2023**.

If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by **September 19, 2023**. If you do hire your own attorney, you will be solely responsible for the payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection. If you object and the Settlement is approved, you will still be entitled to receive benefits under the Settlement, and will be bound by the terms of the Settlement.



### **WILL THERE BE COMPENSATION TO CLASS COUNSEL AND THE NAMED PLAINTIFFS?**

*Class Representative Compensation.* The Court may award reasonable service compensation to the named Plaintiffs for their service in the case, not to exceed \$5,000 each, which shall come from the Settlement Fund. Any such Court-ordered compensation shall be paid within five business days after the Effective Date. This shall be in addition to any Cash Award that the named Plaintiffs may receive as Settlement Class Members.

*Class Counsel Attorneys' Fees, Costs, and Expenses.* The attorneys who brought the lawsuit (listed below) will ask the Court to award them attorneys' fees, costs, and expenses up to one-third of the Settlement Fund (\$2,100,000) for the time and effort expended in investigating the facts, conducting the litigation, and negotiating the Settlement, as well as reimbursement of costs not to exceed \$250,000. Class Counsel's motion for attorneys' fees, costs, and expenses and service awards will be filed with the Court and made available on the Settlement website no later than **September 05, 2023**. The Fee Award shall be payable by the Settlement Administrator from the Settlement Fund within ten (10) business days after entry of the Court's Final Judgment.

### **WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?**

Unless you exclude yourself from the Settlement, you cannot sue or be part of any other lawsuit against UD or any of its affiliated persons and entities about the issues in this case. This specifically includes any claim for breach of contract or any tort, common law, or statutory claim arising out of or in any way allegedly related to UD tuition, fees, and/or costs paid or incurred by or on behalf of any Settlement Class Member in connection with the Spring 2020 Semester. Unless you exclude yourself, all of the decisions and judgments by the Court will bind you.

The Settlement Agreement is available at [www.UDSettlement.com](http://www.UDSettlement.com). *The Settlement Agreement provides more detail regarding the Releases and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully.* If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

### **WHEN WILL I RECEIVE MY CASH PAYMENT?**

Cash Awards will be distributed after the Court grants Final Approval to the Settlement. The Parties cannot accurately predict when (or whether) the Court will grant Final Approval to the Settlement, or whether there may be appeals from that order that take additional time to resolve, so please be patient. After the Court grants Final Approval to the Settlement, and after any appeals are resolved, Settlement Class Members will receive their payment within 60 days.

Updated information about the case will be made available at [www.UDSettlement.com](http://www.UDSettlement.com), or you can call the Settlement Administrator at 833-479-0844 or contact Class Counsel at the information provided below.

### **WHEN WILL THE COURT RULE ON THE SETTLEMENT?**

The Court has already granted Preliminary Approval of the Settlement. A final hearing on the Settlement, called a final approval or fairness hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Settlement Class for settlement purposes and hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees and expenses and service awards for the named Plaintiffs that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on **October**

**23, 2023 at 9 am ET**, at the United States District Court for the District of Delaware, United States Courthouse, 844 North King Street, Wilmington, DE 19801-3570. The date and time of the Final Approval Hearing are subject to change by Court Order, and the hearing may be conducted remotely. Any changes, including instructions for how Settlement Class Members may attend the hearing if it is conducted virtually or by telephonic means, will be posted at the Settlement website, [www.UDSettlement.com](http://www.UDSettlement.com), and on the Court's docket on PACER at <http://ecf.ctd.uscourts.gov>.

If the Settlement is given Final Approval, the Court will not make any determination as to the merits of the claims or defenses at issue. Instead, the Settlement's terms will take effect and the Lawsuit will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement to achieve an early and certain resolution to the Lawsuit, so it provides specific and valuable benefits to the members of the Settlement Class.

If the Court does not grant Final Approval of the Settlement, or if Final Approval is reversed on appeal, or if the Settlement does not become final for some other reason, the named Plaintiffs, UD, and Class Members will be in the same position as they were before the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and Plaintiffs and UD will continue to litigate the Lawsuit. There can be no assurance that, if the Settlement is not approved, the Settlement Class will recover more than is provided in the Settlement, or indeed, anything at all.

#### **WHERE CAN I GET ADDITIONAL INFORMATION?**

This Notice is only a summary of the proposed Settlement. More details are in the Settlement Agreement which, along with other documents, can be obtained at [www.UDSettlement.com](http://www.UDSettlement.com). If you have any questions, you can also call the Settlement Administrator at 833-479-0844 or Class Counsel at the number and email address set forth below. Besides the documents available on the case website, all pleadings and documents filed in Court may be reviewed or copied in the Office of the Clerk.

***Please do not contact the Judge or the Clerk of the Court or The University of Delaware about this case. They cannot give you advice on your options.***

#### **WHO REPRESENTS THE CLASS?**

The Court has approved these attorneys to represent the Settlement Class. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

Joshua D. Arisohn, Esq.  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas  
New York, NY 10019  
Tel: (646) 837-7150  
[jarisohn@bursor.com](mailto:jarisohn@bursor.com)

# ATTACHMENT C

UD Settlement  
Settlement Administrator  
P.O. Box 2058  
Portland, OR 97208-2058

**BARCODE  
NO-PRINT  
ZONE**

FIRST-CLASS MAIL  
U.S. POSTAGE  
PAID  
Portland, OR  
PERMIT NO. 2882

COURT-AUTHORIZED  
NOTICE OF CLASS ACTION AND  
PROPOSED SETTLEMENT

UD'S RECORDS INDICATE  
YOU WERE A STUDENT WHO  
PAID, OR ON WHOSE BEHALF  
WAS PAID, TUITION AND  
FEES TO UD FOR THE SPRING  
2020 SEMESTER AND MAY  
BE ENTITLED TO A PAYMENT  
FROM A CLASS ACTION  
SETTLEMENT.

By Order of the Court Dated: July 21, 2023

UNIQUE ID: <<UNIQUEID>>

<<MAIL ID>>  
<<NAME 1>>  
<<NAME 2>>  
<<ADDRESS LINE 1>>  
<<ADDRESS LINE 2>>  
<<ADDRESS LINE 3>>  
<<ADDRESS LINE 4>>  
<<ADDRESS LINE 5>>  
<<CITY, STATE ZIP>>  
<<COUNTRY>>

**Barcode No-Print Zone**

A Settlement has been reached in a class action lawsuit between The University of Delaware (“UD”) and certain individuals who have alleged that they, and the Settlement Class Members, are entitled to partial refunds of tuition and fees for the Spring 2020 Semester because UD transitioned to remote learning in March 2020 amid the COVID-19 pandemic. The lead case is *Ninivaggi v. University of Delaware*, 20-cv-1478-SB. The proposed Settlement is not an admission of wrongdoing by UD, and UD denies all allegations of wrongdoing and disclaims all liability with regard to all claims in the Lawsuit.

**Am I a Class Member?** UD’s records reflect you may be a Class Member. Class Members are UD undergraduate or graduate students for whom any amount of tuition and fees were paid from any source to UD for the Spring 2020 Semester and that have not been refunded.

**What Can I Get?** If approved by the Court, a Settlement Fund of \$6,300,000.00 has been established to pay all claims to the Settlement Class, as well as notice and administration expenses, approved attorneys’ fees and costs, and service awards.

**How Do I Get a Payment?** Settlement Class Members will automatically receive their shares by check mailed to the Settlement Class Member’s last known mailing address. Alternatively, Class Members may visit the settlement website to receive payment by Venmo or PayPal or to update their mailing address.

**What Are My Other Options?** You may exclude yourself from the Class by sending a letter to the Settlement Administrator no later than **September 19, 2023**. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue UD over the legal issues in the lawsuit. If you do not exclude yourself, you may object to the Settlement. Your written objection must be filed no later than **September 19, 2023**. Specific instructions about how to object to or exclude yourself from the Settlement are available at [UDsettlement.com](http://UDsettlement.com).

**Who Represents Me?** The Court has appointed Bursor & Fisher, P.A. to serve as Class Counsel.

**When Will the Court Consider the Proposed Settlement?** The Court has already granted Preliminary Approval of the Settlement. A Final Approval Hearing will be held to determine the fairness of the Settlement on **October 23, 2023**, at the United States District Court for the District of Delaware, United States Courthouse, 844 North King Street, Wilmington, DE 19801. At the Final Approval Hearing, the Court will consider whether to make final the certification of the Settlement Class for settlement purposes, hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys’ fees and expenses and service awards.

**How Do I Get More Information?** For more information, including a more detailed Notice, Payment Election Form, a copy of the Settlement Agreement and other documents, go to [UDsettlement.com](http://UDsettlement.com), contact the Settlement Administrator at 833-479-0844 or call Class Counsel at 646-837-7150.

# ATTACHMENT D

**Ninivaggi v University of Delaware - CA40066398**

Opt Out Summary Report

Unique ID	Date	First Name	Last Name
6E6E2AAD74	7/24/2023	Coleson	Weir